

themselves, or whose mothers have sufficient means and are competent to take care of them. Any child adopted from either of the Homes shall be returned to the Home from which it was taken upon the order of the board of trustees, and the board shall make such order, whenever they are satisfied that such child is not properly trained, educated, and provided for by the person by whom it was adopted. Such order shall be entered on the minutes of the proceedings of the board of trustees, and shall discharge and cancel the articles of adoption.

SEC. 8. The eighth, tenth, and eleventh sections of chapter ninety-two of the acts of the Eleventh General Assembly are hereby repealed, and all other laws or parts of acts inconsistent with this act are so modified as to conform herewith.

SEC. 9. This act, being deemed of immediate importance, shall be in force after publication in the State Register and Iowa Evening Statesman, newspapers published at Des Moines, Iowa.

Approved April 2, 1868.

I hereby certify that the foregoing act was published in *The Iowa Evening Statesman* April 4, 1868, and in the *Daily State Register* April 5, 1868.

ED WRIGHT, *Secretary of State.*

## CHAPTER 67.

### ENABLING PUBLIC CORPORATIONS TO SETTLE INDEBTEDNESS.

AN ACT to Enable Municipal and Public Corporations at their Election to settle, adjust and compound their Indebtedness, and to Provide for the Issue of New Bonds, and for the Payment of such New Bonds by the Levy of Specific Taxes, and for this Purpose Altering and Amending Existing Charters and Laws. APRIL 2.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That municipal and public corporations, including cities, towns, and counties, are hereby authorized to settle, adjust, and compound debts owing by or claimed against them, evidenced by the bonds or other promissory instruments of such corporations; and such corporations, upon such settlement and composition, are hereby authorized to issue

**New bonds.** new bonds in the place of the old or former bonds, and  
**Illegality of** such new bonds shall be legal and valid to all intents  
**old bonds no** and purposes, and no corporation issuing such new  
**defense** bonds shall be allowed to plead in defense thereto any  
**against new.** matter which might have been pleaded in defense of  
**Proviso: ap-** the old or former bonds: *Provided*, That no compromise  
**proval by** shall be made without first submitting the question  
**people.** whether such compromise shall be made to the people,  
 and shall be by them authorized by a majority of the  
 votes.

**Application** This act is intended to apply only to cases where  
**of act.** cities, towns, and counties have heretofore issued bonds  
 or securities for money on account of any subscription  
 to the capital stock of any railroad company, or on  
 account of or in aid of any public improvement, and  
 the same remain outstanding, and any alleged debt  
 arising therefrom remains unpaid. But this act is

**Limited to** limited to the settlement of bonds and securities here-  
**debts already** tofore issued and outstanding at the time of the passage  
**existing.** and approval hereof; that is to say, the power herein  
 given to settle, adjust, and compound debts is given, with  
 respect to debts already existing, and to enable the  
 debtor corporations to settle the same in accordance with  
 the provisions of this act. And nothing herein contained  
 shall be construed to give the holders of existing  
 bonds or securities the right to compel the debtor  
 corporation to issue such new bonds, or to settle, in  
 the absence of an agreement on its part to do so. And  
 nothing herein contained shall be construed to legalize  
 or render valid, or binding, or in any manner to *effect*  
 [affect] existing bonds or evidences of indebtedness of  
 any character contemplated in this act.

**Issue of new**  
**bonds can**  
**not be com-**  
**pelled.**  
**No bonds le-**  
**galized.**

**Applies to** This act applies to counties, and to cities and towns,  
**counties, and** whether acting under special charters or under the  
**all cities and** general incorporation law.  
**towns.**

**Maximum of** New bonds issued, by virtue hereof, shall in no case  
**bonds.** be for a greater sum than the principal and accrued or  
**Interest; may** earned interest unpaid on the bond or debts, in  
**be payable at** place of which they shall be given, nor bear a  
**N. Y.** greater rate of interest than seven per cent. per  
 annum, which interest may be made payable at New  
 York, N. Y., or at the treasury of the corporation;  
 and such new bonds shall show on their face that they  
 are issued under this act, and if so agreed, may provide

**5 per cent. of** for the annual payment of five per cent. of the prin-  
**principal an-** cipal thereof, in addition to the annual interest, until  
**nually.** said new bonds are fully paid. Said new bonds shall  
 be made payable at the treasury of the corporation;

shall be canceled when paid, and destroyed in the presence of the council of supervisors, who shall cause to be kept a register of all new bonds issued, and all coupons or bonds which are canceled and destroyed. Such new bonds may be in such form, for such amount not exceeding principal and interest then due on the old bonds or securities, and upon such time, not exceeding twenty-five years, as may be agreed upon with the holder or owner. Such new bonds shall only be signed in open session; a register shall be kept thereof, the bonds at once delivered to the *treasurer* [treasurer] of the city, town, or county, who shall be liable on his official bond for the safe keeping thereof, and for the proceeds thereof, until he parts therewith under the direction of the council or board of supervisors.

SEC. 2. The council or trustees of incorporated towns or cities, or the board of supervisors of counties, are hereby invested with full power to bind their respective corporations by settlements made pursuant to and in virtue of this act. But they are directed and required, before any such settlement shall be entered upon, to ascertain the whole amount due by such debtor corporation, and they are invested with power to ascertain this in such way and manner as they may deem best. And the holders of existing bonds shall, if required by public proclamation of the board of supervisors or proper city or town council, as therein required, present their bonds to the proper clerk of the county or city or town, and allow such clerk to make a register of such bonds, showing their date, number, amount, maturity, and rate of interest; and no old bond or evidence of debt shall in any case be allowed, audited, paid, or settled until the same shall be actually produced and surrendered, or established by the judgment of a competent court. If it elects to act hereunder, the city, town, or county, by its proper governing body, shall appoint not less than three nor more than five of its citizens, a board of commissioners to execute the powers and duties required by this act, of which board of commissioners the mayor of the city or town, or the chairman of the board of supervisors, shall be *ex officio* a member; but no act of the board of commissioners in auditing or allowing bonds or debts, or in settlement thereof, shall bind the corporation until such act is reported to the proper governing body of the corporation and approved by it. And said board of commissioners shall keep a record of their acts and

Bonds payable.

Registered bonds.

Not longer than 25 years.

Treasurer liable for bonds.

Powers of local authorities.

To ascertain amount due.

Register of old bonds.

Old bonds.

Board of commissioners to be appointed.

Commissioners' record.

Corporation record. doings, which shall at all times be open to public inspection. And the city, town, or county incorporation shall likewise keep a record of all its acts and doings in the premises, which shall also be open to public inspection.

Appropriation of tax; not to be diverted. Sec. 3. If new bonds or obligations are issued pursuant to the power given by this act, the said corporations named in the first section hereof are hereby authorized, at the time they make their annual levy of general taxes for general revenue, to appropriate and set apart for the ensuing year, or for a given number of years, a specific portion or percentage of the general tax so levied, to pay or apply on the new bonds herein authorized, and on such portion of the principal, if any, as has been agreed to be paid each year. When thus appropriated, (which may be by ordinance, contract, or resolution,) the amount thus appropriated shall be specifically applied to the purpose above named, and shall not be diverted to or used for any other purpose, and shall not be liable to be attached, garnished, seized, or taken on execution, by any creditor of the corporation, and such appropriation shall be to all intents and purposes a mortgage or pledge of the portion or percentage thus appropriated in favor of the parties holding such new bonds. The current expenses of the corporation must be paid out of the yearly or annual general revenue not thus specifically pledged. If the general revenue thus set apart and pledged is not sufficient to pay the interest and principal, if any, of the bonds issued by virtue hereof, the governing body shall levy a specific tax, as provided herein, sufficient to supply the deficiency not provided for by the portion of the general revenue thus set apart and pledged. And it shall not be in the power of any creditor, by any process, suit, judgment, or otherwise, to obtain a lien, right, or priority upon or to such general fund, so as to prevent the corporation from thus appropriating, or setting apart, or pledging such portion of its general revenue as is not necessary for the payment of its current expenses. If for any reason the revenue raised by any one year shall not be fully sufficient to pay the interest or any part of the principal of the new bonds falling due any given year, a specific levy to pay such deficit shall be included in a levy for the next year. If there is a surplus of the specific levy for any year, such surplus shall be exclusively applied on the bonds herein authorized to be issued.

Current expenses. Specific tax. No lien to be obtained. Deficit. Surplus.

Sec. 4. If new bonds or obligations are issued pur-

suant to the power given by this act, the corporations named in the first section thereof are hereby authorized, and it is hereby made the duty of the governing body of said corporations to provide annually in the manner herein prescribed for the payment of the interest of such new bonds, and such portion of the principal, if any, as has been agreed to be paid each year. When any portion of the general tax is appropriated and set apart as provided for in section three of this act, or when any specific additional tax is levied under the provisions of this act, the same shall be from that time forward a specific tax for the purpose of applying on or paying said new bonds or the interest thereon, and for no other purpose, and neither said taxes nor the money raised thereby shall ever be diverted or used for any other object or purpose until the whole of the compromise bonds issued under the provisions of this act are paid in full, both principal and interest. Nor shall the money so raised, or the proceeds of new bonds acquired to settle and pay the old bonds or debts, or be subject to attachment, garnishment, levy, or appropriation by the holders of debts or judgments against the corporation unless such judgments are obtained on the new bonds issued by virtue of this act. Money thus raised shall be kept as a distinct fund to be sacredly and exclusively applied to the sole purpose of paying the debts of the corporation as provided in this act.

Duty of authorities of corporations.

Appropriation and tax not to be diverted till bonds are paid.

Money not liable to attachment.

If the corporation agrees to pay, in addition to the annual interest, some specific portion of the principal each year, such new bonds shall be in such form as to enable this to be done and the amount paid from year to year to be detached from the bonds and canceled. Said specific tax hereby authorized shall be levied at the same time that other taxes are levied, and shall be collected in the same manner, but nothing but money shall be receivable in payment of such tax. And this act shall be construed as an amendment to the charter of cities and to the general incorporation act, being chapter fifty-one of the Revision, and also as enlarging the powers now given by law to the counties of the State. But no creditor of any public or municipal corporation who refuses to settle or compound his debt, and refuses to receive and does not receive new bonds or obligations, shall be entitled to the benefit of this act, or to the specific tax levy herein authorized.

New bonds to allow part of principal paid to be detached.

Act amendatory to ch. 51 Rev.

Creditors refusing to settle not entitled to benefit.

And if the court is satisfied that there is any evasion or delay in the performance of this duty on the part of the corporation, it is hereby invested with the power,

Delay.

Duty of court.	and it is hereby made the duty of the court itself, to enter an order levying such tax and to charge its own officers with the duty of collecting it, and for this purpose they shall have all the powers, and be substituted in the place, of the corporate officers. And if judgments are obtained upon such new bonds or for the interest thereon, and are not paid, the corporate
Property and general revenue liable for judgments on bonds.	property of all kinds, without any exemption, shall be subject to seizure and sale on execution, issued upon such judgments; the general revenue of the corporation shall be liable to pay such judgments, and officers subject
Garnishment	to garnishment. But it shall not be held to authorize the levy of any specific or other tax than such as may be levied by virtue hereof and for the purposes of paying the new bonds herein authorized. And this act shall
Taxing power.	not be construed to enlarge the taxing power of cities, towns, or counties as respects old bonds or debts, nor to validate such bonds or debts in case they are not adjusted under the provisions of this act. Its benefits
Design.	are designed for and limited to the [o]se who voluntarily make an adjustment under its provisions.
Act a contract.	SEC. 5. This act shall be deemed to be a contract in favor of any creditor who accepts of its provisions, and to such creditor or holder of the new bonds herein authorized shall be irrevocable.
Application of act.	SEC. 6. The benefits and provisions of this act only apply to creditors who shall receive new bonds in settlement of prior debts or bonds, nor does this act apply to corporations not indebted, or which do not issue new bonds in settlement of former ones.
Bonds may be paid before due.	SEC. 7. The provisions of this act shall be deemed incorporated in the new bonds issued by virtue hereof. Any of the bonds hereby authorized may at the pleasure of the corporation be paid prior to the time therein fixed for payment, in which case the holder can only demand the principal and interest up to the time of payment.
Advertisement.	SEC. 8. Power is hereby given to the board of commissioners, provided for in this act, to advertise from time to time in such papers as they may think best, and invite the existing bond-holders of the corporation
Bondholders invited to make proposals.	to state to the commissioners: 1st. The terms on which they will exchange old bonds or debts for new bonds to be issued under this act. 2d. The terms on which they will surrender to the city, town, or county, (as the case may be,) old bonds or debts for new bonds to be issued under this act. 3d. The terms on which they will surrender to the city, town, or county (as the

case may be) old bonds for cash. The result shall be reported from time to time to the proper governing body of the corporation, for such action as it may see proper to take on the premises under the provisions of this act. If it is ascertained that the offers to surrender for ready money are the most advantageous, the new bonds herein authorized may be sold for cash, but in no case at less than par, and to no greater extent than is necessary to accept offers from time to time actually received. Money thus obtained shall be paid to and kept by the proper city, town, or county treasurer, and paid out only upon the direction of the council or board of supervisors; for the safe keeping of which the said treasurers shall be liable on their official bonds, the amount of which may be increased from time to time if necessary to secure the corporation from loss. Money thus obtained shall be exempt from attachment, garnishment, or levy; and if garnished the corporation, its officers and commissioners, shall not be held liable thereon.

Action of corporation.

Bonds not to be sold below par.

Treasurers to keep money.

Exemption.

SEC. 9. City and town corporations are invested with power to pass resolutions and ordinances, and counties to pass resolutions and orders, necessary to carry into execution the powers herein given.

Corporations invested with powers.

SEC. 10. No compromise shall be made under the provisions of [this] act until the proper council or board of supervisors shall submit the question whether the powers given by this act shall be exercised by such town, city, or county, and it shall be the duty of the town, [city,] or county authorities to submit the question to the voters of said town, city, or county (as the case may be), at some general or special election. The form of the question submitted may be substantially as follows: "Shall the city of . . . . . (or county of . . . . ., or town of . . . . ., as the case may be), settle its debts under and by virtue of the provisions of the act (giving its title and date of passage)?" The answer on the ballot containing the question shall be "yes" or "no." If the majority of the votes cast are "yes," then the proper city or town council, or board of supervisors, may exercise the powers given by this act in the manner herein prescribed; but no creditor can in any event compel them to exercise the powers. If the majority of the votes cast are "no," then the powers given by this act shall not be exercised by such town, city, or county. The question may be re-submitted to the voters after having been voted "no," but such re-submission must not be within twelve months

Submitted to the people.

Form of question.

Authorities may act.

Creditor can not compel.

Resubmission.

- of first submission. If adopted on such re-submission by a majority of the votes cast, then it shall be lawful for such town, city, or county to exercise the powers given by this act. The notice of the submission, in this section provided for, shall be such as the board of supervisors, or proper city or town council, may prescribe. The result, after being canvassed, shall be entered of record on the proper books of the county, town, or city.
- Notice of election.
- Result recorded.
- Counties of less than 5,000. Cities less than 3,500. Proviso.
- Other modes of settlement.
- Additional provisions.
- Another course.
- New bonds to take up old bonds; security with Treasurer.
- Agreement.
- Seco. 11. The provisions of this act shall not apply to counties having a population of less than five thousand inhabitants; nor to cities having a population of less than three thousand five hundred inhabitants as shown by the census of 1867: *Provided*, That any action or proceeding under the provisions of this act shall be commenced within two years from the taking effect of this act, and not after.
- Seco. 12. Nothing herein contained shall be construed to prevent the corporations herein named from settling their debts without a resort to the powers contained in this act; and no bond shall be regarded as having been issued under this act unless it is so stated on the face thereof; and none of the powers herein given shall apply to bonds which are not issued, or which on the face thereof do not profess to have been issued under the provisions hereof.
- Seco. 13. A debtor corporation, instead of pursuing the course above authorized, may, if it resolves to do so, adopt the following course: It may issue the new bonds herein authorized and take up therewith old bonds (on such terms as may be agreed upon), and then deposit the old bonds with the treasurer of the State of Iowa, in his official capacity, as security for the payment of said new bonds and coupons. If the new bonds and coupons are paid, then the old bonds and coupons are to be surrendered to the proper debtor corporation upon such payment. If said new bonds or coupons are not paid, then the holder thereof may elect to surrender the new bonds and take back the old bonds; but the old bonds cannot be sold to pay the new bonds or coupons. The deposit of old bonds above authorized may be with or without the benefit of the specific levy herein authorized, as may be agreed upon by the parties.



SEC. 14. This act, being deemed of immediate importance, shall go into effect when published in the Iowa State Register and Iowa Evening Statesman.

Approved April 2, 1868.

I hereby certify that the foregoing act was published in the *Daily State Register* April 4, 1868, and in *The Iowa Evening Statesman* April 4, 1868.

ED WRIGHT, *Secretary of State.*

## CHAPTER 68.

### ELECTION ON AMENDMENTS TO THE CONSTITUTION.

AN ACT Providing for the Submission of certain proposed Amendments to the Constitution of the State of Iowa, to the People thereof, at the next General Election therein. APRIL 2

WHEREAS, The Eleventh General Assembly of the State of Iowa did propose certain amendments to the constitution of said State, and did, by a majority of the members elected to each of the two houses thereof, agree to the same; and did cause the same to be entered on their journals with the yeas and nays taken thereon, and did refer the same to the legislature chosen at the general election now last past, and did cause the same to be published, as provided by law, for three months previous to such election; and

WHEREAS, The legislature chosen at such election, to-wit, the 12th General Assembly of the State of Iowa, has, by a majority of all the members elected to each house thereof, agreed to the following of said proposed amendments to the constitution of the State of Iowa, to-wit:

1st. Strike the word "white" from section one of article two thereof. Constitution, art. 2, § 1.

2d. Strike the word "white" from section thirty-three of article three thereof. Constitution, art. 3, § 33.

3d. Strike the word "white" from section thirty-four of article three thereof. Constitution, art. 3, § 34.

4th. Strike the word "white" from section thirty-five of article three thereof. Constitution, art. 3, § 35.

5th. Strike the word "white" from section one of article six thereof. Therefore, Constitution, art. 6, § 1.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That said amendments are hereby